

66307-291-7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	PATENT
Anthony Fred MERCURIO et al.)	GROUP: 1712
Serial No.: 10/702,041)	EXAMINER: METZMAIER, Daniel S.
Filed: November 6, 2003)	CUSTOMER NO. 25269
AEROSOL DELIVERY SYSTEM)	CONFIRMATION NO. 7411

DECLARATION UNDER 37 CFR §1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We, Anthony Fred Mercurio and Derek Alfred Wheeler, hereby
declare and state as follows:

1. We are the named co-inventors of the invention described and claimed in the above-identified U.S. patent application.
2. We have received and reviewed the Office Action of December 14, 2005 and have noted that examiner's rejection of claims 1-11 based on U.S. Patent No. 6,881,757 to Moodycliffe et al.
3. With respect to the examiner's rejection of claim 9, which is directed to the inventive aerosol composition as a polish, an air freshener, a repellant, a pre- or post-shave preparation, a shaving preparation, or a follicle softener, we assert that we invented this subject matter prior to

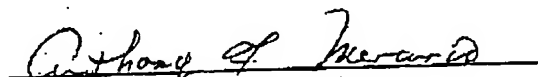
- 1 -

November 8, 2002, which is the effective date of the Moodycliffe et al. patent.


4. With respect to our statement in the foregoing paragraph, we attach copies of pages from our laboratory notebook kept in the normal course of our employment which shows that we created a biliquid foam polish formulation as early as September 14, 2001 (see documents 100-53, 100-55, 100-86, 100-87, 100-88, 100-89), an insect repellant formulation as early as March 21, 2002 (see documents 100-178, 100-224), a biliquid foam after-shave formulation as early as December 13, 2001 (see document 100-109), a biliquid foam shave formulation as early as September 8, 2002 (see documents 100-179, 100-225), a biliquid foam shave or furniture polish formulation as early as December 12, 2001 (see document 100-110), and a biliquid foam air freshener formulation as early as March 21, 2002 (see documents 100-179, 100-225).

We furthermore declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section

1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Anthony Ffed Mercurio

6/19/06
Date


Derek Alfred Wheeler

16/06/06
Date

53.



Project Promise 100-53-1

		amount of product ->	40%
		%	g
BI-Liquid Foam			
Mineral oil	SC Johnson	49.10	19.64 7.856
200 fluid 1000cts	Dow Corning	20.00	8.00 3.2
200 fluid 1000cts	Croda	20.00	8.00 3.2
Laureth 4	House	0.90	0.36 0.144
1%SLES in HOH	House	10.00	4.00 1.6
		100.00	40.00 16

0.016 1.584

Working	Amount ->	100.00
1% Carbomer	8.00	8.00
bi liquid foam	40.00	40.00
phenonip	0.05	0.05
naoh	0.53	0.53
Water	51.42	51.42
	100.00	100.00

Formula 100-5-1	
Water	81.20
Carbomer	0.20
Mineral oil	9.82
PDMS 100 cts.	4.00
PDMS 1000 cts.	4.00
Laureth-4	0.18
SLES	0.02
preservative	0.05
NaOH	0.53
	100.00

Ingredient	%w/w
Water	83.25
Carbomer	0.08
Mineral oil	19.64
PDMS 100 cts.	8.00
PDMS 1000 cts.	8.00
Laureth-4	0.36
SLES	0.04
preservative	0.05
TEA	0.53
Fragrance	0.05
Total	100.00

Project Promise 100-53-2

		amount of product ->	40%
		%	g
BI-Liquid Foam			
Mineral oil	SC Johnson	49.10	19.64 7.856
200 fluid 1000cts	Dow Corning	20.00	8.00 3.2
200 fluid 1000cts	Croda	20.00	8.00 3.2
Alkoxylated Fatty Alcohol	House	0.90	0.36 0.144
1%SLES in HOH	House	10.00	4.00 1.6
		100.00	40.00 16

0.016 1.584

Working	Amount ->	100.00
1% Carbomer	8.00	8.00
bi liquid foam	40.00	40.00
phenonip	0.05	0.05
naoh	0.53	0.53
Water	51.42	51.42
	100.00	100.00

Formula 100-5-1	
Water	81.20
Carbomer	0.20
Mineral oil	9.82
PDMS 100 cts.	4.00
PDMS 1000 cts.	4.00
Laureth-4	0.18
Alkoxylated Fatty Alcohol	0.02
preservative	0.05
NaOH	0.53
	100.00

Ingredient	%w/w
Water	83.25
Carbomer	0.08
Mineral oil	19.64
PDMS 100 cts.	8.00
PDMS 1000 cts.	8.00
Laureth-4	0.36
Alkoxylated Fatty Alcohol	0.04
preservative	0.05
TEA	0.53
Fragrance	0.05
Total	100.00

With unknown FIT 890
#1 SIGNED TO DEPT. ART
#2 L.A. COO, A.J. COO & HCC
9/14/2001

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1/2/86

Open to Formulation of 1/2" diameter (1/2" dia)

	Amount in Formula	% of PA		500
Bi-Liquid Foam				
Mineral oil	Klearol 80.00	84.86	424.29	
200 fluid 1000cts	Dow Corning 2.00	2.12	10.61	
200 fluid 1000cts	Dow Corning 2.00	2.12	10.61	
Laureth-4	House 0.85	0.90	4.50	
1%Alkoxylated Fatty Alcohol(sq)	House 9.43	10.00	50.00	
	94.28	100.00	500.00	

% in formula →

94.28

Standard Formula	%
Water	14.93
Carbomer / TEA / BSA	0.08
Mineral oil / TEA	80.00
DC-200 fluid 1000cts	2.00
DC-200 fluid 1000cts	2.00
Laureth-4	0.85
Ethoxylated/Propoxylated fatty Alcohol	0.09
Phenonip	0.05
Total	100.00

Manufacturing
Water 1.87 8.35
2% Carbopol 980/TEA 4.00 20.00
Bi-Liquid Foam 94.28 471.40
Phenonip 0.05 0.25
100.00 500.00

500

9/1/86

CONCEPT: Liquid Foam to provide a
medium for the active ingredients
to be delivered.

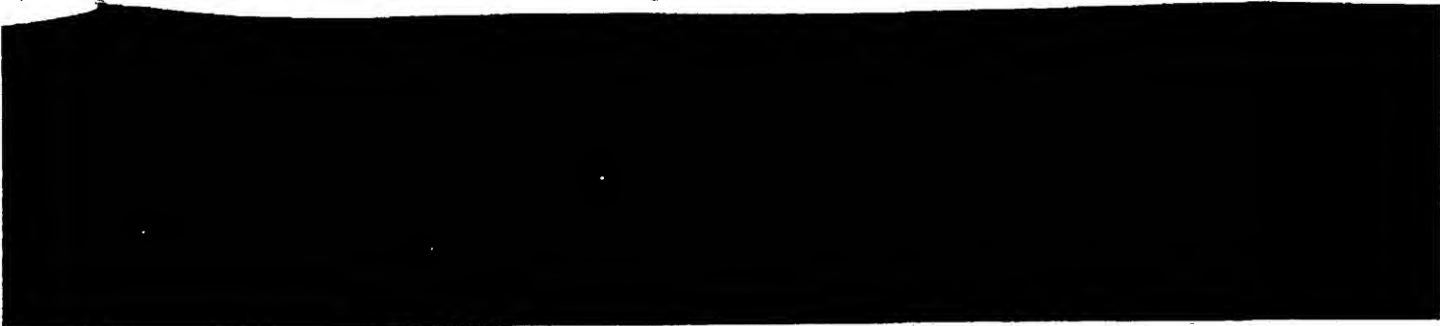
X. *Notes:* JLES is a liquid foam. It is a foam
that is used to deliver active ingredients.
It is a foam that is used to deliver active ingredients.
It is a foam that is used to deliver active ingredients.

X. Another point was made about the
fact that the amount of active ingredients
is the same as the amount of foam.

See also 100-55-13

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9/18/86



36

95.3

100

100.00

100.00

100.00

Project Promise

100-86

		Amount in Formula	% in Foam	amount of product	120.000 ← in grams
			%	g	
Bi-Liquid Foam		10.000	52.41	62.89	
Mineral oil	SC Johnson	7.000	39.69	44.03	
SC Johnson 20cTs	SCJ	0.172	0.90	1.08	
Laureth 4	House	1.908	10.00	12.00	
1% SLES(aq)	House	19.080	100.00	120.00	

19.079685

		Amount	500.000
Working		8.000	40.000
1% Carbomer/TEA		19.080	95.398
Bi-Liquid foam		0.050	0.250
phenonip		1.000	5.000
DC AF		71.870	359.352
Water		100.000	500.000

Ingredient	%w/w
Water	81.949
Carbomer	0.080
Mineral oil	10.000
PDMS 20 cts.	7.000
Laureth-4	0.172
SLES	0.019
preservative	0.050
TEA	0.530
DC AF	0.200
Total	100.000

100.00

100.00

100.00

100.00

87

CHARGE

BU

NO. 100 1000000
 1000000 1000000

20%
 100%

Project Promise 100-87

		Amount in Formula	% in Foam	amount of product →	220.000 ← in grams
			%	g	
Bi-Liquid Foam					
Mineral oil	SC Johnson	30.000	72.24	158.94	
SC Johnson 20cTs	SCJ	7.000	16.86	37.08	
Laureth 4	House	0.374	0.80	1.98	
1% SLES(aq)	House	4.153	10.00	22.00	
		41.526	100.00	220.00	

41.52637486

Working	Amount →	500.000
1% Carbomer/TEA	8.000	40.000
Bi-Liquid foam	41.526	207.632
phenonip	0.050	0.250
DC AF	1.000	5.000
Water	49.424	247.118
	100.000	500.000

Ingredient	%w/w
Water	61.725
Carbomer	0.080
Mineral oil	30.000
PDMS 20 cts.	7.000
Laureth-4	0.374
SLES	0.042
preservative	0.050
TEA	0.530
DC AF	0.200
Total	100.000

100-87

88

100-88
100-88
100-88
100-88

TEA 1/1

Project Promise 100-88

		Amount in Formula	% in Foam %	amount of product → g	280.000 ← in grams
Bi-Liquid Foam					
Mineral oil-Klearol(Witco)	SC Johnson	40.000	75.83	212.32	
SCJohnson 20cTs	SCJ	7.000	13.27	37.18	
Laureth 4	House	0.475	0.90	2.52	
1% SLES(aq)	House	5.275	10.00	28.00	
		52.750	100.00	280.00	

52.74971942 ← Calculation

Working	Amount →	500.000
1% Carbomer/TEA	8.000	40.000
Bi-Liquid foam	52.750	263.749
phenonip	0.050	0.250
DC AF	1.000	5.000
Water	38.200	191.002
	100.000	500.000

Ingredient	%w/w
Water	51.612
Carbomer	0.080
Mineral oil	40.000
PDMS 20 cts.	7.000
Laureth-4	0.475
SLES	0.053
preservative	0.050
TEA	0.530
DC AF	0.200
Total	100.000

DAT-200

OBJECTIVE: INCREASE MINERAL OIL

REF 100 AL

TEST 1/1

Project Promise 100-89

		Amount in Formula	% in Foam	amount of product →	330.000 ← in grams
			%	g	
Bi-Liquid Foam		50.000	78.16	257.92	
Mineral oil-Klearyl(Witco)	SC Johnson	7.000	10.94	38.11	
SC Johnson 20cTs	SCJ	0.576	0.90	2.97	
Laureth 4	House	6.397	10.00	33.00	
1% SLES(aq)	House	63.973	100.00	330.00	

83.97306397 ← Calculation

Working	Amount →	500.000
1% Cartamer/TEA	8.000	40.000
Bi-Liquid foam	63.973	319.865
phenonip	0.050	0.250
DC AF	1.000	5.000
Water	26.977	134.885
	100.000	500.000

Ingredient	%w/w
Water	41.500
Carbomer	0.080
Mineral oil	50.000
PDMS 20 cts.	7.000
Laureth-4	0.576
SLES	0.084
preservative	0.050
TEA	0.530
DC AF	0.200
Total	100.000

2011/11/11

D.R.D.

11/1

01

128

OBTAINED

6% DEET Photocopy Spray Lotion

DEET
3/21/02

Spray DEET
100-178

	Formula Amount	% in Foam	Amount→	190
DEET	6.000	33.41	83.48	
Triphenylmethicone	5.000	27.84	52.90	
Octyl Stearate	5.000	27.84	52.90	
PEG-30 Castor Oil	0.182	0.90	1.71	
1% SLES(aq)	1.796	10.00	19.00	
	17.957	100.00	190.00	

17.95735129

Standard Formula	%	1000.00
Water	78.443	784.43
1% Ultraz	5.000	50.00
Titanium Dioxide	0.500	5.00
PA	17.957	179.57
liquid Germall Plus	0.100	1.00
Total	100.000	1000.00

DEET

3/21 02

100-224
DEET Creamy Lotion

Formula Amount		% in Formula	% In Foam	Amount(g)
Isopropyl Mristate	Protomeen	5.00	18.56	27.84
DEET	SCJ	10.00	37.13	55.69
Diisopropyl Adipate	ISP	4.00	14.85	22.28
DC 245	Dow Corning	5.00	18.56	27.84
PEG 35 Castor Oil	Croda	0.24	0.90	1.35
SLES	Cognis	2.29	10.00	15.00
		29.94	100.00	150.00
26.936		0.24		
Manufacturing		%	Amount→	500.00
Water		70.08	350.320	
Crothix Liquid	Croda	1.00	5.000	
Sepigel	Seppic	1.50	7.500	
Liquid Germall Plus	Isp	0.50	2.500	
Bi-Liquid Foam		26.94	134.680	
		100.00	500.000	

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OBJECTIVE: P2 SCJ - ALCOHOL AFTER SHAVE LOTION
GEL 1/13/13

100-109

Alcohol After Shave Lotion(SCJ)

	Formula Amount	% in Foam	Amount-->	120
Caprylic/Capric Triglyceride	3.000	21.38	25.66	
Diisopropyl Adipate	4.000	28.51	34.21	
Gransil BBW-5	2.000	14.26	17.11	
DC200-5cTs	2.000	14.26	17.11	
Fragrance(red Raspberry)	1.500	10.69	12.83	
Peg 25 Hydrogenated Castor Oil	0.063	0.45	0.54	
Peg 30 Castor Oil	0.063	0.45	0.54	
Water	1.403	10.00	12.00	
	14.029	100.00	120.00	

14.0291807

0.126 Amount--> 500

Water	37.221	186.10
2% Ultrez/TEA	16.000	80.00
Denatured Alcohol	20.000	100.00
Glycerin	2.000	10.00
Allantoin	0.250	1.25
2% Xanthan Gum	10.000	50.00
Hydrolyzed Oat Protein	0.500	2.50
PA	14.029	70.15
	100.000	500.00

PA 07 GEL P2 SCJ 5.81
DATE 10
6.17

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12/13 01

811

1/10/10

Old Formula

U

Shave Product

100-211

Shave Product Prototype

100-211

Shave Product Prototype

Formula Amount	% in Formula	% in Foam	Amount→	100.00
Isopentane	10.000	89.100	89.10	
Oleth-2	0.101	0.900	0.90	
1% SLES/Water	1.122	10.000	10.00	
	11.223	100.000	100.00	
	11.223	0.101		

Manufacturing			300.00
Water	36.477	182.383	
Carbopol Aqua SF-1/TEA	7.000	35.000	
Disodium Lauryl Sulfosuccinate	24.500	122.500	
Ammonium Cocoyl Isoethionate	2.500	12.500	
Glycerin	4.000	20.000	
Cocamidopropyl Betaine	5.700	28.500	
Ammonium Lauryl Sulphate	8.100	40.500	
B-Liquid Foam	11.223	56.117	
Liquid Germall Plus	0.500	2.500	
	100.000	500.000	

8/11

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8/9

02



110

CRIST 05:

CRIST 05: 100/110
new new boundary SLE

100/110

Standard Formula	%
Water	9.90
Isododecane	69.10
BYK-LP X 20191 Silicon	20.00
Laureth-4	0.90
SLES	0.10
Total	100.00

Sample Sent

12/12

01

OBJECTIVE OF FORMULA 100-245
THROUGH RE-TEST

100-245

Objective is to get Fragrance into water phase and have an ingredient prevent the migration of fragrance to the Isopentane

Bi-Liquid Foam Reference 100-225(9/9/2002)

Formula Amount				Amount(g)	
Ingredient	Trade Name	Supplier	% in Formula	% in Foam	150.000
Fragrance	Fragrance	SCJ	0.3000	89.100	133.650
PEG 35 Castor Oil	Etocas 35	Croda	0.0030	0.900	1.350
1%SLES(Aq)	Standopol-ES 2	Cognis	0.0337	10.000	15.000
			0.3367	100.000	150.000
			0.0030		

0.337

Manufacturing				Amount->	
Ingredient	Trade Name	Supplier	Formula %		60.000
Water	Water	House	89.6633	53.788	
Bi-Liquid Foam	Bi-Liquid Foam	House	0.3367	0.202	
Polyquaternium-11	Gafquat 755N	ISP	5.0000	3.000	
Isopentane	Isopentane	Triple Crown	5.0000	3.000	
			100.0000	60.000	

Procedure for Bi-Liquid Foam is standard as pertains to patent.

Procedure: Mix water Quat-11/add Bi-Liquid Foam mix/add Isopentane mix.

Combine Bi-Liquid Foam containing Fragrance
into water and isopentane trying to
get a homogeneous system.

made on 10/24/02

[Signature]
Frank Mabel

9/9
10/24/

09
02

725

Cher. 25

SK

h-l p 2 Room Fragrance

100-225
Fragrance-Room Fragrance

Formula Amount

		% in Formula	% in Foam	Amount(g)
Fragrance	IFF	10.00	88.10	150.00
PEG 35 Castor Oil	Croda	0.10	0.90	133.65
				1.35
SLES	Cognis	1.12	12.00	15.00
		11.22	100.00	150.00
		0.10		
	11.223			

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9/19

02
02



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